United Nations A/HRC/27/44

General Assembly

Distr.: General
27 August 2014

Original: English

Human Rights Council
Twenty-seventh session
Agenda items 2 and 10
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Situation of human rights in Yemen

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is the High Commissioner's fifth periodic report on the human rights situation in Yemen submitted in the light of Human Rights Council resolutions 18/19, 19/29, 21/22 and 24/32.

* Late submission.

GE.14-14836

1414836

Please recycle

Contents

		Paragraphs	*Page*
I.	Introduction	1	3
II.	Background	2–19	3
	A. International legal framework	2–4	3
	B. Political developments	5–12	3
	C. Security situation	13–18	5
	D. Humanitarian situation	19	6
III.	Situation of human rights and implementation of recommendations of OHCHR	20–69	7
	A. Accountability and transitional justice	20–23	7
	B. Extrajudicial killings	24–27	8
	C. Death penalty	28–31	8
	D. Enforced disappearances, fair trial and prison conditions	32–36	9
	E. Rights to freedoms of expression, peaceful assembly and association	37–40	10
	F. Judiciary	41–42	10
	G. Children's rights	43–47	11
	H. Women's rights	48–51	12
	I. Refugees, migrants, asylum seekers and internally displaced persons	52–57	13
	J. Marginalized groups	58–59	14
	K. Cooperation with the Office of the United Nations High Commissioner for Human Rights	60–69	14
IV.	Recommendations	70–72	15

I. Introduction

1. The present report is the fifth periodic report on the human rights situation in Yemen submitted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council resolutions 18/19, 21/22 and 24/32. It provides an updated assessment of the overall human rights situation in Yemen from 1 July 2013 to 30 June 2014, particularly against the backdrop of the recommendations contained in previous High Commissioner's reports and Council resolutions 18/19 and 21/22. The information contained in this report is based primarily on human rights monitoring carried out by the OHCHR office in Yemen (OHCHR–Yemen).

II. Background

A. International legal framework

2. Yemen is party to eight of the nine core international human rights treaties, as well as to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. On 11 June 2013, the Cabinet approved the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and endorsed the accession of Yemen to the Rome Statute of the International Criminal Court. However, the Parliament has yet to approve the ratification of those conventions as well as the Optional Protocol to the Convention against Torture and Other Cruel, Degrading Treatment or Punishment. In April 2014, the Cabinet approved the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

3. Yemen is party to all four Geneva Conventions of 12 August 1949, as well as to Additional Protocols I and II to the 1949 Geneva Conventions, and the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, and it is also bound by the customary rules of international humanitarian law.

4. As a State party to the above-mentioned treaties, Yemen is legally bound to respect, protect and fulfil the human rights of those within its jurisdiction. During the reporting period, in reviewing the implementation by Yemen of its treaty obligations, the relevant human rights treaty bodies have noted that violations of civil, political, economic, social and cultural rights persist on a considerable scale.

B. Political developments

5. The Gulf Cooperation Council and the Agreement on the implementation mechanism for the transition period in accordance with the initiative of the Gulf Cooperation Council (Transition Agreement) signed on 23 November 2011, brought an end to the 2011 popular uprising and brokered a political settlement in Yemen. The Transition Agreement envisaged a two-phase transition. The first phase included early presidential elections, which took place on 21 February 2012 and saw the election of President Abd Rabu Mansur Hadi. The second phase commenced with the broad National Dialogue Conference, which concluded on 25 January 2014. The remaining key milestones expected to bring the transition period to its closure include the constitutional drafting process, a constitutional referendum, parliamentary and local council elections, as well as presidential elections.

6. Five-hundred and sixty-five participants took part in the National Dialogue Conference representing a wide spectrum of constituencies including women, youth, and civil society. Also participating were some factions of the Southern movement, and representatives of the Al Houthi movement. This dialogue process was supported and facilitated by the Special Adviser to the Secretary-General on Yemen. The Conference provided a forum for a wide range of political negotiations, social concerns, rule of law and human rights. It divided into nine working groups, each addressing a thematic area such as the Southern question, the Sa'ada question, rights and freedoms, good governance, transitional justice, and State-building among others. Constructive discussions aimed at building consensus around proposed solutions resulted in a series of agreed principles to form the basis of the new Constitution.

7. Transitional justice was one of the most contentious issues, specifically the question of immunity and political isolation of those obstructing change. Through negotiations and a framework to reach consensus, as well the intervention of the President, an agreement was reached to adopt a more forward-looking approach. That included setting forth strict criteria for holding office.

8. The National Dialogue Conference concluded on 25 January 2014 with the adoption of the outcomes of the nine working groups, totalling some 1,800 recommendations. At its conclusion, the Conference also adopted a so-called "guarantee document", which established that the political transition be linked to the completion of tasks originally outlined in the Transition Agreement, including the drafting and adoption of a new Constitution and general elections. The "guarantee document" also extended the deadlines originally envisioned in the Transition Agreement for at least one more year. Furthermore, the mandate of President Hadi was extended until the election of a new President.

9. On the proposed federal restructuring of the State, the National Dialogue Conference recommended the establishment of a committee tasked with determining the number and geographic delineation of regions. President Hadi established this committee on 3 February 2014, after the Conference had ended. At the end of February, the committee announced that an agreement had been reached on the new federal division of the State: two regions in the south and four in the north. Some key leaders from the south rejected the proposal, while the conflict escalated in the north and the Houthis continued to express their fear that the federalization as proposed would only divide the country between rich and poor regions.

10. On 8 March 2014, Presidential Decrees Nos. 26/2014 and 27/2014 established the Constitutional Drafting Commission and named its 17 members, including four women. According to the Decrees, the drafting of the Constitution would be followed by public consultations and a referendum within one year.

11. On 24 April 2014, Presidential Decrees Nos. 30/2014 and 31/2014 established the National Body for Monitoring the Implementation of the NDC Outcomes, defining its mandate and procedures, and named its 82 members. All constituencies that participated in the National Dialogue Conference are represented in the National Body.[1] The National Body is tasked with overseeing the implementation of the Conference outcomes, as well as ensuring that the draft Constitution is in conformity with those outcomes. The National Body has yet to convene, as a new group of leading Hirak representatives, who had not participated in the Conference, are expected to join. However, at the time of writing the present report, it had not yet met.

[1] The National Body includes, inter alia, 23 women, youth, and representatives of political parties from the Southern movement and the north.

12. On 26 February 2014, the Security Council adopted resolution 2140 (2014) reaffirming the need for full and timely implementation of the political transition following the National Dialogue Conference. The resolution encourages all constituencies to continue their engagement in the political transition to implement the recommendations of the Conference. In addition, it calls upon the Hirak Southern movement, the Houthi movement and others to partake constructively in the process and to reject the use of violence to achieve political aims. The resolution also introduced targeted sanctions measures against individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen. More specifically, the resolution established a panel of experts to investigate those who engaged in or provided support for acts that threaten the peace, security or stability of Yemen, including committing acts that violate applicable international human rights law or international humanitarian law or acts that constitute human rights abuses.

C. Security situation

13. Fighting in the north, between Houthi supporters and pro-Islah/Salafist armed groups, resulted in hundreds of civilians killed and thousands displaced. Confrontations started in October 2013, when the Houthis established armed checkpoints all around Dammaj in the northern Sa'ada Governorate and accused Salafist groups of recruiting foreign fighters to attack the Houthis. On 30 October 2013, Houthi armed groups shelled Dammaj, killing at least 20 persons and injuring 100. While the Houthis besieged Dammaj, pro-Islah/Salafist armed tribesmen tried to open different battlefronts in Amran and Al Jawf Governorates. Tribesmen in Arhab, north of Sana'a, blocked the roads leading to Sa'ada preventing the entrance of goods and services toward Houthi groups into Sa'ada. Clashes between Houthis and northern tribesmen in northern governorates continued until 12 January 2014 when the two conflicting sides signed a ceasefire agreement, brokered by a presidential delegation.

14. Despite the ceasefire agreement, there has been intermittent fighting between the Houthis and pro-Islah/Salafist armed groups. On 20 May 2014, the fighting renewed in Amran Governorate and reached the outskirts of the capital Sana'a. This time, the tribesmen fighting against the Houthis were reportedly backed by the "310th Military Brigade" and left dozens dead and injured. There has been a patchwork of ceasefire agreements over the past months throughout the north, many of which have not held for any length of time. The Office for the Coordination of Humanitarian Affairs (OCHA) reported that, between October 2013 and May 2014, an estimated 20,000 people had been displaced in the conflict in Amran Governorate. The conflict also caused destruction of private and public properties.

15. In April 2014, the Yemeni Armed Forces launched a military operation in the south aiming at reclaiming the Governorates of Abyan and Shabwa from the control of Al-Qaida in the Arabian Peninsula (AQAP). In early May 2014, President Hadi noted that the country was in an "open war" with AQAP, and that the military operation would expand to track all Al-Qaida members in Yemen. On 23 May, AQAP raided government buildings in Seiyun and Hadramout. The raid resulted in the killing of at least 27 individuals including 12 government troops and 11 attackers. The Government regained control of the cities on 24 May 2014.

16. The United States of America supported the military operation in the south of Yemen by using drone strikes that, according to local non-governmental organizations (NGOs), killed some 55 AQAP militants in Abyan and Shabwa Governorates. According to the same sources, the United States-supported drone operations intensified during the reporting period, with a total of 26 reported strikes, bringing the total death toll to at least

94 people killed in Abyan, Al-Jawf, Hadramout, Mareb, Sana'a and Shabwah Governorates. On 15 December 2013, the Parliament adopted a declaration calling for an end to the use of drones. Lack of transparency surrounding the use of armed drones for targeted killings in Yemen continued, creating an accountability vacuum, in which victims were unable to seek redress.

17. Attacks against oil and infrastructure escalated in the wake of the Government's military operation against AQAP. The main oil export pipeline was frequently attacked resulting in long electricity cuts in the capital. The attacks led to increases in diesel prices by as much as 200 per cent in unregulated markets. Extreme price volatility resulted in increased food prices by as much as 30 per cent, decreased access to already scarce water resources (pumped by generators), and a doubling of transportation costs. As a result, health care and other basic services were even more difficult to access.[2] On 11 June 2014, President Hadi replaced several ministers as a step to solve the power cuts and fuel crisis.[3]

18. During the reporting period, killings and kidnappings of government and high-ranking military officials, foreigners and other individuals were recorded. On 22 November 2013, Abdulkareem Jadban, Al Houthi Member of Parliament, was assassinated in Sana'a, while on 21 January 2014, one of the most prominent Houthi leaders, Ahmed Sharaf el-Din, was assassinated on his way to the National Dialogue Conference on the day of the final plenary session. On 19 January 2014, unknown assailants reportedly killed a diplomat from the Islamic Republic of Iran in Sana'a and on 6 October 2013, an international staff member of the United Nations Children's Fund (UNICEF) was kidnapped on the way to Sana'a airport and remains in captivity. Although unconfirmed, several sources reported that on 9 May 2014, the Minister of Defence and two senior security officers survived an ambush while travelling from Abyan to Shabwa Governorate.

D. Humanitarian situation

19. One of the poorest countries in the Arab world, Yemen has witnessed a decline in humanitarian conditions following the sociopolitical unrest that erupted in 2011. According to OCHA, during 2014 14.7 million people — about 60 per cent of the population — will require some form of humanitarian assistance. About 10.5 million people are food insecure, 4.5 million of them severely and an estimated 1,080,000 children under 5 years suffer from acute malnutrition. Over half the total population, 13.1 million people, have no access to improved water sources or to adequate sanitation facilities. About 8.6 million people have insufficient access to health services. This scale of humanitarian needs makes the country one of the largest global humanitarian emergencies.

[2] OCHA, Humanitarian Bulletin, issue 27, 13 May–5 June, available from http://yemen.humanitarianresponse.info/.

[3] According to Decree No. 95/2014, the following ministers were changed: Minister for Communications and Information Technology; Minister of Electricity; Minister for Media; Minister for Oil and Minerals; Minister of Finance; and the Minister for Foreign Affairs.

III. Situation of human rights and implementation of recommendations of OHCHR

A. Accountability and transitional justice

20. Delays in addressing the issue of accountability continued to hamper progress in redress for serious human rights violations committed in 2011. During the reporting period, there were persistent demands to bring perpetrators from all sides to justice and to provide redress for victims and their families. Concerns over the credibility of judicial investigations into human rights violations, committed in the wake of the unrest in 2011, have been highlighted in the High Commissioner's previous reports.[4] The High Commissioner recommended that the Government of Yemen launch transparent and independent investigations, compliant with international standards, into any allegations of serious human rights violations committed by government security forces during the events of 2011.[5] In September 2012, a presidential decree was passed establishing a commission to investigate allegations of human rights violations that occurred in 2011. However, no commissioners had been appointed as of 1 July 2014.

21. Little progress was recorded with regard to the draft Law on Transitional Justice and National Reconciliation. As mentioned in the previous report, President Hadi submitted a draft transitional justice law to the Parliament in January 2013. In April 2014, the Ministry of Legal Affairs recalled the draft and revised it in order to align it with the outcomes of the National Dialogue Conference. In cooperation with the United Nations Development Programme (UNDP), in May 2014 OHCHR organized a national consultation involving approximately 300 participants to discuss the revised version of the law. Based on the consultation, concrete recommendations were provided to the Ministry, which, in May 2014, submitted the new draft to the Cabinet for further consideration.

22. The Commission to Consider and Address Land Issues and the Commission on Forcibly Dismissed Employees for southern Yemen were established in January 2013 as confidence-building measures to address the root causes of southern grievances. The Land Commission, consisting of five judges, started its work on 10 March 2013 and has established seven field offices across south Yemen. It has so far received more than 100,000 claims from individuals maintaining that their lands were illegally confiscated by the northern Government following the 1994 war. At the time of reporting none of the claims filed with the Land Commission had been resolved. The Dismissals Commission, which consists of five judges and four military officers, started its work on 13 March 2013 and until May 2014, had received approximately 93,000 applications.[6]

23. Both the Land and the Dismissals Commissions suffer chronic challenges relating to insufficient staffing, inadequate resources and weak administrative and management structures. The establishment of the two Commissions, and the amount of cases received, saw increased demand for reparations and compensation by the claimants. On the basis of the cases received, the two Commissions made recommendations to the President. These were adopted, but they have not been implemented.

---

[4] A/HRC/21/37 and A/HRC/24/34.

[5] A/HRC/21/37, para. 67 (a), and A/HRC/24/34, para. 55 (e).

[6] According to information received from the Commission, 56,789 claims were received from former military personnel, 28,000 from former civil employees and 18,000 from the security sector.

B. Extrajudicial killings

24. In December 2013, in south Yemen, the thirty-third brigade of the Yemeni Armed Forces mounted a military operation against different targets in Al Dhale'a Governorate. A major incident occurred on 27 December 2013, when the brigade carried out a strike on the funeral procession of an alleged member of the southern separatist movement Al Hirak in the city of Sanah. The attack resulted in 21 civilians killed, including four children, and approximately 30 injured.

25. On 28 December 2013, President Hadi set up an investigation commission, composed of security and military officials, to investigate the events in Al Dhale'a and to report to the Supreme Security Council. On 29 December 2013, the commission was deployed to the incident's location. At the time of reporting, the commission had not made any of its findings public.

26. On 16 January 2014, indiscriminate attacks and shelling by government forces against civilian targets resumed in many parts of Al Dhale'a, including Al Dhale'a city, Al Houd, Al Kabar, Al Jaleelah and Al Wa'erah. The operation resulted in 10 civilians killed, including two children, and 20 civilians injured. According to the information available, shelling began when armed men affiliated with Al Hirak attacked a checkpoint manned by the thirty-third brigade and crossfire between the two groups led to a number of casualties.

27. According to local NGOs, between December 2013 and February 2014, at least 43 individuals were killed, including eight children, and 70 civilians were injured as part of the military operations in Al Dhale'a. At the time of reporting, no report from the investigation commission had been issued and no individuals connected to the incidents had been prosecuted.

C. Death penalty

28. Yemen has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. National legislation in Yemen imposes death penalty sentences for a very wide range of offences,[7] including for financial crimes, blasphemy, offences committed under Hodoud (religiously ordained crimes) and Qisas (death in retribution), drug-related offences as well as crimes that appear to have a political dimension. The Penal Law maintains death by stoning for extramarital heterosexual and homosexual intercourse.[8] The Law also prescribes death by stoning for extramarital heterosexual and consensual adult homosexual conduct.

29. Yemen has not established a moratorium on the use of the death penalty and it continues to impose capital punishment. According to official figures provided by the General Prosecutor's Office, between 1 July 2013 and April 2014, authorities executed 15 adults. At the time of writing the present report, there were 52 persons on death row believed to have been under 18 years of age when they committed offences. UNICEF submitted the list of 52 death row prisoners to the Office of the President of Yemen with a

[7] A total of 315 types of offence are punishable by the death penalty. In Yemen the death penalty is provided for in four main laws: the 1994 Penal Law, the 1998 Law on combating kidnappings, the 1998 military Penal Code; and the 1993 Law on combating trafficking and illicit use of drugs and psychotropic substances. The draft Law on combating human trafficking proposes to introduce a new sentence punishable by death.

[8] In accordance with international human rights jurisprudence, these crimes do not meet the threshold of "most serious crimes" and must not be punishable by death (A/HRC/27/23, paras. 28–39).

request to suspend all executions in those cases. The Office instructed the relevant bodies to suspend all executions and also asked the Supreme Court to form a committee to review those cases and to make recommendations.

30. While the Penal Law prohibits the death penalty for minors, courts still sentence to death minors or adults who committed crimes while under 18 years old. The practice is attributed, among other factors, to the difficulty in determining the age of offenders in the absence of birth certificates.

31. The death penalty was addressed during the National Dialogue Conference: the Working Group on Rights and Freedoms recommended that: "No laws shall authorize the imposition of the death penalty, with the exception of the offences under the categories of Hodoud (religiously ordained crimes) and Qisas (death in retribution)." This recommendation will be taken into consideration by the Constitution Drafting Commission when amending the relevant laws.[9]

D. Enforced disappearances, fair trial and prison conditions

32. Despite Cabinet decision No. 180 (2012) to release all those detained in relation to their participation in the 2011 events, 16 individuals have remained in custody.[10] At the time of drafting the present report, the detainees' families did not have any information on the whereabouts of their relatives.

33. With regard to the case of the Presidential Mosque bombing,[11] in which several people including former President Saleh, were injured or died, President Hadi issued a decree on 4 June 2013 to release 19 of the 22 detainees held in connection with the case. The Attorney General decided to release 17 of them, who were freed on 6 June 2013, and undertook to speedily conclude the investigation of the remaining five detainees. In January 2014, the five detainees started a hunger strike protesting against the length of their detention without trial. OHCHR visited the five detainees in the Central Prison of Sana'a on 5 January 2014. They affirmed that the last court session on their case had been held on 5 March 2013, when the chief of the Criminal Specialized Court referred the case to the Supreme Judiciary Council and assigned a new judge to the case.

34. In April 2014, OHCHR visited the Al Dhale'a Central Prison, where it received 14 complaints from detainees whose trial had been overdue since November 2013. The prison management stated that the cases had not been processed owing to various security challenges and the fact that judges had gone on strike.

35. During the reporting period, OHCHR received complaints regarding arbitrary detentions by the National Security Office and the Political Security Office. OHCHR also received several reports of detention by the National Security Office of nationals of Yemen returning from Saudi Arabia upon their arrival at Sana'a airport.

36. OHCHR conducted several visits to prisons[12] and found that conditions remained very poor, particularly with regard to hygiene and sanitation facilities. Detainees, most of

[9] During its 2013 review, Yemen accepted the universal periodic review recommendation on a review of its death penalty legislation, to bring it into compliance with the International Covenant on Civil and Political Rights, particularly to ensure that the death penalty did not apply to minors. The review also recommended reducing the number of crimes that are punishable by the death penalty, excluding the death penalty for crimes concerning drugs (A/HRC/WG.6/18/L.6, paras. 115.54–55).

[10] According to sources, one of the demonstrators arrested in 2011 was released in July 2013.

[11] See A/HRC/24/34, para. 21.

[12] Aden, Al Dhale'a and Sana'a Central Prisons.

them suffering from skin diseases, reported serious health issues and limited access to adequate medical services.[13]

E. Rights to freedoms of expression, peaceful assembly and association

37. The situation of media freedoms and the safety and security of journalists deteriorated during the reporting period. OHCHR interviewed and documented cases of journalists as well as media who had been subjected to threats and physical attacks by security forces and unknown armed men. On 11 June 2014, the Presidential Guard stormed the offices of the satellite TV channel *Yemen Today* stopping its broadcast and confiscating equipment. On the same day, the *Yemen Today* newspaper was also closed by the Presidential Guard. As reported in the media, the Presidential Guard did not present any written orders from the Public Prosecution.

38. According to local sources, more than 197 cases of violations against journalists were reported. These included threats, physical attacks and attempted assassinations. For instance, on 28 November 2013, the Chief Editor of *Masa Press* survived an assassination attempt. According to local NGOs, 62 court cases were brought against individual journalists on different charges. As widely reported in the press, some international correspondents were denied entry or expelled from Yemen.[14]

39. The draft Law on Press and Publications[15] was reviewed by the Parliamentary Media Committee, which submitted its comments to the Parliament in September 2013. No further development on the draft law has been recorded. A draft Media Law, prepared by an expert committee, was submitted to the Parliament on 2 July 2013. The Parliamentary Media Committee submitted its comments in February 2014. Members of Parliament suggested that the draft should include press, publication, audiovisual and electronic media.

40. Peaceful demonstrations and sit-ins by various groups continued to take place throughout Yemen. In southern Yemen, some demonstrations have been repressed with force by Government security forces. According to local NGOs, on 21 February 2014, one person was killed during demonstrations in Aden, while another 20 were injured as anti-riot forces attempted to disperse the protesters. In this context, during a protest in Al Mukallah city, one person was killed by Government forces. At the same event, national authorities reportedly detained seven protesters. The protests were organized by the pro-separatist southern movement Al Hirak to express dissatisfaction with the National Dialogue Conference outcomes and to mark the events that had left 10 people dead on 21 February 2013 during a pro-south demonstration in Aden.[16]

F. Judiciary

41. On 10 November 2013, the Parliament adopted amendments to the Judicial Authority Law. The law, which provides for more independence of the Supreme Judicial

[13] During the visit to Al Dhale'a prison, OHCHR found four women detainees held in one small cell without any access to special premises for sanitation, food or recreation. OHCHR also documented the case of seven boys held in shared cells with adult men.

[14] Committee to Protect Journalists, available from www.cpj.org/2014/05/yemen-expels-1-international-journalist-bars-anoth.php.

[15] See A/HRC/24/34, para. 33.

[16] Ibid., para. 32.

Council from the executive power, was amended moving some of the competencies traditionally under the Minister of Justice to the Supreme Judicial Council.[17]

42. On 28 March 2014, a nationwide strike of judges was initiated. Judges continue to lament poor working conditions and fear for their personal safety. The strike was triggered by the kidnapping on 26 March 2014 of a judge inside the court premises in Hajjah Governorate. The strike ended on 27 May 2014 following an agreement between the Supreme Judicial Council and the Judges' Club to undertake comprehensive reforms in the judicial system. The Club recorded a total of 63 attacks against judges during 2013, and 58 attacks in the first quarter of 2014, including death threats, armed attacks inside courtrooms, kidnappings and physical and verbal harassment.

G. Children's rights

43. The National Dialogue Conference Outcome Document introduced important recommendations on children's rights and proposed guidelines and standards to be adopted in the new Constitution. Those included establishing adulthood at 18 years and setting the minimum age for marriage at 18 years. The Outcome Document called for the prohibition of recruitment and use of children in military groups. It also highlighted other child rights issues including their right to education, the rights of disabled children, the prohibition of the juvenile death penalty, the prohibition and criminalization of female genital mutilation, stressing the best interests of the child in all actions and decisions relating to children. Following the adoption of the Outcome Document, a draft Child Rights Law was prepared by a committee chaired by the Ministry of Legal Affairs and presented on 14 May 2014 to the Cabinet for approval.

44. On 14 May 2014, the Government of Yemen signed an Action Plan to end and prevent the recruitment and use of children by the Yemeni Armed Forces.[18] The Action Plan set out concrete steps to release all children recruited by government security forces, reintegrate them into their communities and prevent further recruitment. Currently, follow-up mechanisms are being established as defined in the provisions of the Action Plan. These include a Joint Technical Committee composed of relevant ministries, the Higher Council for Motherhood and Childhood and the civil registration authorities, together with United Nations representatives. The main objective of the Committee is to facilitate the implementation and monitoring of the Action Plan. Military and civilian focal points have been appointed to supervise the Committee. Additionally, an interministerial task force for children will be set up to address core issues around children and armed conflict.

45. Despite some progress made, children continue to be recruited by various armed forces and armed groups. Four parties in Yemen, particularly Al Houthi/Ansar Allah, pro-Government militias, Government forces and Ansar al-Sharia have reportedly been recruiting children.[19] According to UNICEF, during the reporting period, 122 boys were

[17] According to the new amendments, the following authorities were transferred from the Ministry of Justice to the Supreme Judicial Council: nomination of Supreme Court judges; appointment and transfer of judges; control over the Judicial Inspection Body. In addition, the Minister of Justice no longer retains the right to send warnings to judges.

[18] The Action Plan was signed by the co-chairs of the United Nations country task force on monitoring and reporting grave violations of children's rights in situations of armed conflict, the United Nations Resident Coordinator in Yemen and the UNICEF Representative; and on part of the Government, the Minister of Defence, Chief of General Staff, Maj. Gen. Ahmed Ali Al-Ashwal. The signing was witnessed by the Special Representative of the Secretary-General for Children and Armed Conflict and the Prime Minister of Yemen.

[19] See the Report of the Secretary-General on children and armed conflict (A/67/845–S/2013/245).

reported as recruited and used by armed forces, which represented an increase of 15 per cent from the previous reporting period.

46. Children continued to be victims of killing and maiming due to the conflicts in the north and the south of the country. According to UNICEF, there was a 29 per cent increase in children affected by armed conflicts, with a total 229 children (190 boys, 39 girls) killed and 188 maimed. A significant increase in child casualties was recorded in Al Dhale'a Governorate due to armed clashes and attacks by Yemeni Armed Forces.

47. Throughout 2013, over 560 unaccompanied children from Yemen were caught at the borders crossing illegally into or being returned from Saudi Arabia or were stranded in Haradh while attempting to reach Saudi Arabia.[20] In addition, many children escaped the famine and drought in the Horn of Africa and undertook the hazardous journey with the help of smugglers across the Gulf of Aden to reach the shores of Yemen. According to UNICEF, out of 271 unaccompanied children from Ethiopia assisted in Haradh, the vast majority ended up in the hands of traffickers and experienced terrible ordeals. A significant number of them, mostly boys between 13 and 15 years of age, were detained in adult prisons because they did not possess any identification confirming their age.

H. Women's rights

48. At the National Dialogue Conference, among the participants of which 30 per cent were women, the Working Group on Rights and Freedoms recommended that the principle of equality be at the core of the Constitution. Other recommendations set the minimum age of marriage at 18 years, addressed violence against women and set a 30 per cent quota for women's participation in public service as well as in State-elected bodies. Following the finalization of the Conference, four women were elected on the Constitutional Drafting Commission.

49. As a result of conflict and displacement, gender-based violence was increasingly reported. This particularly affected internally displaced persons, migrants and other communities touched by conflict. Sexual violence, domestic violence and cases of early marriage were also recorded by the United Nations Population Fund (UNFPA).[21] Despite the informal reports, survivors often did not report the violence committed against them, fearing retribution from the assailants. Women were often denied access to services due to traditional practices, such as that male spouses or relatives should provide authorization for women to seek health care and/or other forms of aid. In general, women refrained from disclosing gender-based violence because of stigma, fear of reprisals or honour killings.

50. There is a major gap with regard to prosecution of sexual violence. The Penal Code does not include a basic definition of sexual violence compliant with international human rights standards and does not incorporate any sections on war crimes and crimes against humanity. This translates into a complete absence of provisions regarding sexual-violence related to conflict.

---

[20] According to UNICEF, 377 unaccompanied children were expelled from Saudi Arabia in 2013; 85 were caught by general security officers; 13 by border guards; one by central security and seven children went voluntarily to the centre. In the first half of 2014, 290 unaccompanied children were expelled from Saudi Arabia; 82 were caught by general security officers; one by border guards and three children went voluntarily to the centre.

[21] Between January and May 2014, UNFPA recorded 752 cases of violence against women in conflict-affected areas including rape, sexual and physical assault, psychological abuse, denial of resources as well as early and forced marriages.

51. A legislative amendment to the nationality law of Yemen was introduced in 2010[22] allowing a child born to a Yemeni mother to gain Yemeni nationality when the father is a foreigner, unknown or when descent is not sure. However, it was not clear what the status of this law was and the degree to which it was being implemented.

I. Refugees, migrants, asylum seekers and internally displaced persons

52. While a signatory to the 1951 Convention relating to the Status of Refugees, Yemen has not incorporated the Convention into national refugee-specific legislation or established a refugee status determination procedure. In the absence of such legislation, the legal status of asylum seekers and refugees has been governed by a mix of decrees and provisions, inter alia, Republican Decree No. 47/1991 on the entry and residence of foreigners. That gap in the legislation has led to different approaches, for example between nationals of Somalia and non-Somali individuals in need of international protection. In this regard, the Government accorded refugee status on a prima facie basis to Somali refugees, whereas the Office of the United Nations High Commissioner for Refugees (UNHCR) conducted refugee status determination for all other asylum seekers.

53. During the reporting period, Yemen dealt with a mixed flow of refugees, asylum seekers and migrants seeking safety, protection or economic opportunities. Transit centres and reception centres were fully managed by UNHCR and its implementing partners without an active role by the Government. Refugee women and children were particularly vulnerable as they were often kidnapped and held hostage by smugglers or traffickers.

54. As of July 2014, over 200 asylum seekers from Eritrea had been detained in Hodeida Detention Centre, some since 2011, allegedly for security reasons. In February 2014, as a result of UNHCR intervention, 161 Eritrean individuals were released and moved to Sana'a.

55. According to OCHA, during the last week of May 2014, heavy fighting between militants and government forces in Amran Governorate, northern Yemen, triggered the displacement of up to 20,000 people. It was unclear if some of those people included those who had been displaced in earlier clashes from October 2013 to March 2014. In the south of the country, another 20,000 people were displaced during military operations against AQAP, which began on 29 April 2014. The Deputy Governor in Shabwah reported to OCHA that 80 per cent of the displaced people in the Governorate had later returned home. The majority of the displaced in Abyan were also reported to be returning home. An unknown number continued to live in public facilities because their homes had been destroyed, and they needed humanitarian assistance.[23]

56. During the reporting period, hundreds of men, women and children were reported as trafficked, primarily for the purpose of forced labour, forced begging, domestic servitude and sexual exploitation. Included were individuals trafficked from abroad, but there were also cases of internally displaced children recruited by traffickers in camps and trafficked to Saudi Arabia.

57. Progress was recorded in the Government's efforts to establish institutional mechanisms to counter human trafficking. A functioning National Technical Committee to Counter Human Trafficking, chaired by the Minister of Human Rights, was established in February 2013. Comprehensive legislation criminalizing all forms of human trafficking was

[22] Nationality Law No. 6/1990.

[23] OCHA, Humanitarian Bulletin, issue 24, 13 May–5 June, available from http://yemen.humanitarianresponse.info/.

drafted by the Ministry of Justice, reviewed by the Committee and later submitted to the Parliament.

J. Marginalized groups

58. The Muhamasheen community has been successful in advocating its rights in the National Dialogue Conference, especially in the area of participation in the public sphere. The Conference's Working Group on Rights and Freedoms recommended a 10 per cent participation in employment in public services, as well as equal access in leadership and decision-making positions. The Conference outcomes also focused on the development of a specialized national body to ensure Muhamasheen integration into society, particularly in accessing justice, education and training as well as military service. Other outcomes called for the drafting of national plans for the Muhamasheen community to claim their rights.

59. Despite this progress, Yemen's marginalized communities continue to be victims of attacks or neglect by the authorities. The National Muhamasheen Union reported several attacks against communities across the country, which resulted in their displacement from temporary built homes. OHCHR–Yemen recorded two cases of forced displacement in the Ta'izz Governorate.[24]

K. Cooperation with the Office of the United Nations High Commissioner for Human Rights

60. On 26 September 2012, OHCHR and the Government of Yemen signed a host country agreement formally establishing an OHCHR field presence in Yemen. Its premises were officially inaugurated on 30 September 2013, under the auspices of the United Nations Deputy High Commissioner for Human Rights.

61. During the reporting period, OHCHR continued to provide support towards the development of the draft transitional justice law. As part of the OHCHR-UNDP transitional justice programme, countrywide consultations on transitional justice were organized between government representatives and civil society. These consultations enabled the parties to reach consensus about human rights violations and sensitive political issues, with the aim of overcoming the sectarian divide. The consultative process included sections of society that had previously been excluded, such as Houthi representatives, citizens from southern governorates, victims' associations and tribesmen. More than 700 Yemenis were involved in the events.

62. Parallel consultations on the draft law on Transitional Justice and National Reconciliation were organized by OHCHR. Subsequently, comments on the law were submitted to the Minister of Legal Affairs, who in turn submitted the revised law in May 2014 to the Cabinet for further elaboration. In the context of the transitional justice programme, OHCHR and UNDP supported the Ministry in establishing a transitional justice office and trained Ministry staff on transitional justice.

[24] In an incident in the village of Jabal Habash, clashes between the Muhamasheen and the resident communities resulted in 25 households being displaced, with local authorities not intervening to protect the Al-Muhamasheen community. In the second incident, in the Al Jomalh area, a temporary Muhamasheen settlement, consisting of 62 households and approximately 300 members, who had been living on the land for 30 years, was threatened with eviction when a businessman purchased the land. The Governor of Ta'izz promised the community a new piece of land. However, at the time of reporting, no land had been identified.

63. OHCHR and UNDP provided support to the Land and Dismissals Commissions through the creation of a database and succeeded in enabling the commissions to properly aggregate and disaggregate cases, issue reports and analysis regarding specific case and patterns of crime, protect documentation and register new claims electronically. The programme also supported the Land Commission in designing a plan to deal with mass claims. It is expected that both the Land and Dismissals Commissions will issue recommendations for at least 20 per cent of cases until the end of 2014.

64. In cooperation with the Office of the Special Adviser to the Secretary-General on Yemen and other United Nations agencies, OHCHR supported the Constitutional Drafting Commission to integrate international human rights standards into the new Constitution.

65. In cooperation with UNDP, OHCHR supported the national consultations on the first National Human Rights Plan of Yemen, which adopted a framework for the development of the Plan.

66. OHCHR and UNDP provided technical support and expertise to the Ministry of Human Rights in preparing the law establishing the National Human Rights Institution. They also carried out broad consultations with civil society on the draft law and supported advocacy with parliamentarians. The draft law was referred to the Parliament in January 2014.

67. OHCHR together with other United Nations entities provided technical support to the parliamentary committees working on the law to combat trafficking. This included advice on international human rights standards on prevention and combating trafficking as well as on protection and reintegration of victims.

68. OHCHR provided capacity-building to human rights NGOs on human rights monitoring and reporting; integrating a bill of rights into the Constitution; non-discrimination of marginalized groups; as well as a national human rights institution.

69. In the framework of the Peacebuilding Fund, OHCHR signed a technical assistance agreement with the Ministry of the Interior to provide technical assistance to the reform of the security sector and incorporate human rights standards into legislation, codes of conduct and training programmes for the police.

IV. Recommendations

70. **The High Commissioner notes the progress achieved so far to strengthen promotion and protection of human rights in Yemen, particularly the process that ended in the National Dialogue Conference. She remains mindful of the significant security, political, and humanitarian challenges faced by the country. In line with her previous recommendations and based on the observations of her Office in Yemen, the High Commissioner:**

(a) Welcomes the conclusion of the National Dialogue Conference and the inclusiveness of the process. She notes with appreciation the consensus reached over the outcomes of the Conference pertaining to human rights especially with regard to the rights of women, children and marginalized communities;

(b) Regrets that the overall security situation has escalated into intermittent conflict since October 2013, and urges all parties involved to end the conflict and respect their obligations under international humanitarian and human rights law and contribute to the peaceful transition process;

(c) Deplores that no independent and effective investigations have been conducted in relation to allegations of the excessive use of force and grave human

rights violations committed in Al-Dhale'a, Amran and other regions, in particular in cases resulting in deaths and attacks against civilian targets such as schools and hospitals. Regrets that no immediate safe access was provided for humanitarian organizations to assist the affected population;

(d) Calls for the swift approval by the Parliament to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the accession to the Rome Statute of the International Criminal Court; she also calls for the Parliament to endorse the Law on Enforced Disappearances and the draft law establishing the national human rights institution;

(e) Notes the progress made in receiving individual claims by the Commission to Consider and Address Land Issues and the Commission on Forcibly Dismissed Employees for Southern Yemen as a demonstration of the Government's commitment to addressing long-standing grievances and to create confidence and strongly encourages the Government to act upon the Commissions' recommendations;

(f) Regrets that, since September 2012, no appointments have been made of the commissioners on the national commission of inquiry into allegations of human rights violations that occurred in 2011. This delay hampers the credibility of any investigation and points to a lack of solid commitment by the Government towards redress and justice for victims of past human rights violations;

(g) Regrets that a decision on the Law on Transitional Justice and National Reconciliation has yet to be adopted, despite repeated requests by the Security Council and the Human Rights Council among others. Encourages the Government to cooperate with OHCHR in order to fully align the law with international human rights norms, standards and best practices;

(h) Expresses her concern over the continued detention of individuals arrested in connection with the 2011 events, despite formal commitments towards their release; notes the frequent practice of prolonged detention without trial or without proper arrest warrants and documentation; and is further concerned that peaceful protests, particularly in southern Yemen, are often suppressed, at times with force, with reported arrests, injuries or deaths of protesters;

(i) Encourages the Government to cooperate with the United Nations human rights mechanisms, particularly by extending a standing invitation to special procedures.

71. **The High Commissioner recommends that the Government of Yemen take the following measures, some of them reiterated from her previous reports:**

(a) Expedite the establishment of the national commission of inquiry by naming its members and providing it with all facilities to carry out its task immediately;

(b) Repeal Amnesty Law No. 1 (2012) and comply with international human rights law prohibiting immunity for those responsible for serious human rights violations, including war crimes and crimes against humanity;

(c) Cooperate with OHCHR to revise the draft Law on Transitional Justice and National Reconciliation to be in conformity with international norms, standards and best practices;

(d) Release all individuals imprisoned for their peaceful participation in the 2011 events and, according to due process and fair trial standards, verify the names of missing persons and inform their families of their whereabouts; and put an end to the

practice of arbitrary detentions conducted by National Security Forces and Political Security Offices;

(e) Ensure independent and effective investigations in relation to allegations of the excessive use of force and grave human rights violations in Al-Dhale'a, Amran and other regions, in particular in cases resulting in the death of individuals and attacks against civilian targets such as schools and hospitals. The investigations should be conducted by independent and non-military bodies, the results of the investigations should be made public and those proved to be guilty should be held accountable;

(f) Ensure immediate, safe and unimpeded access of humanitarian organizations into all areas affected by armed conflicts;

(g) Ensure the safety and security of foreign and local journalists and ensure that they have access to all sources of information without fear of retaliation;

(h) Ensure that women's participation and women's rights are taken into due consideration in the Constitution drafting process;

(i) Ensure implementation of the Action Plan to end and prevent the recruitment and use of children by the Yemeni Armed Forces;

(j) Ensure that the National Dialogue Conference outcomes regarding Muhamasheen and other minorities are incorporated into the new Constitution and implemented into practice;

(k) Enact the law to criminalize human trafficking and develop official standard operating procedures that operationalize the law and help to identify and assist victims of trafficking, and investigate and prosecute perpetrators;

(l) Establish a moratorium on the use of the death penalty pursuant to moratorium resolutions of the General Assembly. Until then, the Government should ensure scrupulous respect of due process-related rights, including fair trial guarantees in cases involving the death penalty, and ensure that the death penalty is not applied to minors;

(m) Ensure that counter-terrorism policies and strategies comply fully with international law, including human rights law. In this regard, ensure that any use of lethal force, including through the use of armed drones, complies fully with relevant international law, including the obligations of Yemen under international human rights law. Where violations of the law occur, conduct independent, impartial, prompt and effective investigations, and provide victims or their relatives with an effective remedy. Similarly, ensure transparency and public reporting over the use of armed drones.

72. **The High Commissioner recommends that the international community:**

(a) Encourage prompt, independent and impartial investigations into serious human rights violations that have resulted in loss of life and/or serious injury. Once they have been conducted, extend the necessary and appropriate support to the Government of Yemen in order to ensure accountability and appropriate remedy for any human rights violations;

(b) Encourage the establishment, in consultation with the Government of Yemen, of an independent, international mechanism to investigate violations of human rights that took place in 2011;

(c) Cooperate with the panel of experts charged with investigating individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen pursuant to Security Council resolution 2140

(2014). In this regard, submit relevant information that meets the designation criteria for sanctions against spoilers, including planning, directing or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses in Yemen;

(d) Provide all necessary financial and technical support for the Government's transitional plan, in particular with regard to those aspects concerning the restoration of the rule of law, the consolidation of human rights protection mechanisms and programmes, and the promotion of human rights;

(e) Heed the call for humanitarian assistance and provide financial support to the Yemen humanitarian response plan for 2014.